

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OXFORD BIOMEDICAL RESEARCH, INC.,
a Michigan corporation,

Plaintiff,

Case No. 05-60274

v.

Hon. John Corbett O'Meara

INVITROGEN CORPORATION,

Defendant.

**ORDER GRANTING DEFENDANT'S
MOTION FOR PROTECTIVE ORDER**

Before the court is Defendant's motion for protective order, filed April 9, 2009. Defendant opposes Plaintiff's attempt to depose non-party Terry Sivesind in Wisconsin. Defendant filed a supplemental brief in support on April 13, 2009; Plaintiff filed a response brief on April 15, 2009. Also on April 15, Plaintiff filed a motion for leave to conduct the deposition of Mr. Sivesind. Defendant filed a reply brief in support of its motion on April 16, 2009.

After careful consideration of the papers, the court will grant Defendant's motion for protective order and deny Plaintiff leave to take Mr. Sivesind's deposition. Although Plaintiff contends that Mr. Sivesind is unavailable for trial, it appears that this has been the case since this action commenced in 2005. Plaintiff's request is untimely and likely to disrupt the parties' preparation for trial. Discovery is long closed and trial is scheduled for May 12, 2009.

Accordingly, IT IS HEREBY ORDERED that Defendant's April 9, 2009 motion for protective order is GRANTED.

IT IS FURTHER ORDERED that Plaintiff's April 15, 2009 for leave to conduct the

deposition of Terry Sivesind is DENIED.

s/John Corbett O'Meara
United States District Judge

Date: April 23, 2009

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, April 23, 2009, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager